

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

MICHAEL C. WORSHAM
1916 Cosner Road
Forest Hill, MD 21050

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Case #: 12-cv- 2635

Plaintiff

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v.

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U.S. DEPARTMENT OF THE TREASURY*
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

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Defendant

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COMPLAINT FOR INJUNCTIVE RELIEF

This is an action under the Freedom of Information Act, 5 U.S.C. § 552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from Plaintiff Worsham by the Defendant U.S. Department of the Treasury (“Treasury”) and its component the Internal Revenue Service (“IRS”).

Jurisdiction and Venue

1. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this District under 5 U.S.C. § 552(a)(4)(B).
2. Plaintiff Michael C. Worsham is a natural person who lives in Forest Hill, in Harford County, Maryland.
3. Defendant Treasury is a Department of the Executive Branch of the United States Government, and includes as component entity the IRS. The Treasury is an agency within the meaning of 5 U.S.C. § 552(f).

Plaintiff's FOIA Requests to Defendant

4. In a letter dated April 10, 2012 to the IRS, Plaintiff submitted a Freedom of Information Act ("FOIA") request for the following:
 1. Documents fully identifying all persons, including attorneys, who prepared, reviewed and/or approved the IRS page 39 included as part of the IRS's "The Truth About Frivolous Tax Arguments" that appeared on the IRS's web site from January 1, 2011 to at least January 24, 2012, for the IRS FRIVOLOUS TAX ARGUMENTS IN GENERAL, "Contention: The Sixteenth Amendment does not authorize a direct non-apportioned federal income tax on United States citizens," and attached herein as Exhibit 1.
 2. Documents fully identifying all persons, including attorneys, who prepared, reviewed and/or approved the IRS page 29 included as part of the IRS's "The Truth About Frivolous Tax Arguments" that appeared on the IRS's web site starting on or about February 16, 2012 to the present, for the IRS FRIVOLOUS TAX ARGUMENTS IN GENERAL, "Contention: The Sixteenth Amendment does not authorize a direct non-apportioned federal income tax on United States citizens," and attached herein as Exhibit 2.
 3. All documents, including but limited to letters, faxes, emails, memos, and hand written notes, to or from any person, including attorneys, discussing or related to the preparation, review or approval of any portion of any change to page 29 of the IRS FRIVOLOUS TAX ARGUMENTS IN GENERAL from January 2009 to February 16, 2012. This request is not directed towards other changes in or parts of the IRS FRIVOLOUS TAX ARGUMENTS IN GENERAL, just the Contention in paragraph 2 above regarding the Sixteenth Amendment.
5. Copies of the documents identified in Plaintiff's April 10, 2012 FOIA request to the IRS as Exhibits 1 and 2 are attached herein as Exhibits A and B.
6. Plaintiff's April 10, 2012 FOIA request also sought "a waiver of any search or copying fees, because the information sought is relevant to the IRS's position and changes regarding the constitutionality of the federal income tax law, and in the broad public interest."

Defendant's Failure to Timely Comply with Plaintiff's Request

7. In a mostly form letter dated April 27, 2012 the IRS did not respond to Plaintiff's request or provide any documents.

8. In a letter dated May 7, 2012 to the IRS, Plaintiff again requested documents responsive to his original April 10, 2012 request, and pointed out that the IRS did not respond substantively to his FOIA request.
9. The IRS did not respond to Plaintiff's May 7, 2012 letter.
10. To date, Defendant DOT and the IRS have not provided the records requested by Plaintiff in his FOIA request, notwithstanding the FOIA's requirement of an agency response and compliance within twenty (20) working days.
11. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to Defendant DOT and the IRS.
12. Defendant has wrongfully withheld the requested records from Plaintiff.
13. The documents sought in Plaintiff's FOIA request are of considerable public interest.

WHEREFORE, Plaintiff requests that this Court:

- A. issue an order declaring the Defendant's actions to be a violation of the FOIA;
- B. issue an order enjoining the Defendant from relying on an invalid regulation or practice in all future FOIA undertakings;
- C. order Defendant to disclose the requested records in their entireties and make copies available to Plaintiff;
- D. waive any fees or costs for the records sought;
- E. issue a finding that Plaintiff has "substantially prevailed," and attorney's fees pursuant to 5 U.S.C. § 552(a)(4)(E) for any portion of the litigation in which Plaintiff uses an attorney;
- F. make a specific finding of the arbitrary and capricious nature of the Defendant's actions and refer the matter to the Merit System Protection Board for investigation under 5 U.S.C. § 552(a)(4)(F);
- G. provide for expeditious proceedings in this action;
- H. award costs and grant such other relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Michael C. Worsham

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Forest Hill, Maryland 21050-2210
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mcw @ worshamlaw.com
Federal Bar #25923

September 4, 2012

THE TRUTH ABOUT FRIVOLOUS TAX ARGUMENTS

January 1, 2011

I. FRIVOLOUS TAX ARGUMENTS IN GENERAL	1
A. The Voluntary Nature of the Federal Income Tax System.....	1
1. Contention: The filing of a tax return is voluntary.....	1
2. Contention: Payment of tax is voluntary.	3
3. Contention: Taxpayers can reduce their federal income tax liability by filing a “zero return.”	7
4. Contention: The IRS must prepare federal tax returns for a person who fails to file.	10
5. Contention: Compliance with an administrative summons issued by the IRS is voluntary.	11
B. The Meaning of Income: Taxable Income and Gross Income	13
1. Contention: Wages, tips, and other compensation received for personal services are not income.	13
2. Contention: Only foreign-source income is taxable.	18
3. Contention: Federal Reserve Notes are not income.	21
4. Contention: Military retirement pay does not constitute income.	22
C. The Meaning of Certain Terms Used in the Internal Revenue Code	23
1. Contention: Taxpayer is not a “citizen” of the United States, thus not subject to the federal income tax laws.	23
2. Contention: The “United States” consists only of the District of Columbia, federal territories, and federal enclaves.	26
3. Contention: Taxpayer is not a “person” as defined by the Internal Revenue Code, thus is not subject to the federal income tax laws.	28
4. Contention: The only “employees” subject to federal income tax are employees of the federal government.	29
D. Constitutional Amendment Claims	31
1. Contention: Taxpayers can refuse to pay income taxes on religious or moral grounds by invoking the First Amendment.....	31
2. Contention: Federal income taxes constitute a “taking” of property without due process of law, violating the Fifth Amendment.	33
3. Contention: Taxpayers do not have to file returns or provide financial information because of the protection against self-incrimination found in the Fifth Amendment.....	34
4. Contention: Compelled compliance with the federal income tax laws is a form of servitude in violation of the Thirteenth Amendment.	35
5. Contention: The Sixteenth Amendment to the United States Constitution was not properly ratified, thus the federal income tax laws are unconstitutional.....	36
6. Contention: The Sixteenth Amendment does not authorize a direct non- apportioned federal income tax on United States citizens.	39
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Exhibit A

6. Contention: The Sixteenth Amendment does not authorize a direct non-apportioned federal income tax on United States citizens.

Some assert that the Sixteenth Amendment does not authorize a direct non-apportioned income tax and thus, U.S. citizens and residents are not subject to federal income tax laws.

The Law: The constitutionality of the Sixteenth Amendment has invariably been upheld when challenged. And numerous courts have both implicitly and explicitly recognized that the Sixteenth Amendment authorizes a non-apportioned direct income tax on United States citizens and that the federal tax laws as applied are valid. In United States v. Collins, 920 F.2d 619, 629 (10th Cir. 1990), cert. denied, 500 U.S. 920 (1991), the court cited to Brushaber v. Union Pac. R.R., 240 U.S. 1, 12-19 (1916), and noted that the U.S. Supreme Court has recognized that the “sixteenth amendment authorizes a direct nonapportioned tax upon United States citizens throughout the nation.”

Relevant Case Law:

United States v. Collins, 920 F.2d 619, 629 (10th Cir. 1990), cert. denied, 500 U.S. 950 (1991) – the court found defendant’s argument that the Sixteenth Amendment does not authorize a direct, non-apportioned tax on United States citizens similarly to be “devoid of any arguable basis in law.”

In re Becraft, 885 F.2d 547 (9th Cir. 1989) – the court affirmed a failure to file conviction, rejecting the taxpayer’s frivolous position that the Sixteenth Amendment does not authorize a direct non-apportioned income tax.

Lovell v. United States, 755 F.2d 517, 518 (7th Cir. 1984) – the court rejected the argument that the Constitution prohibits imposition of a direct tax without apportionment, and upheld the district court’s frivolous return penalty assessment and the award of attorneys’ fees to the government “because [the taxpayers’] legal position was patently frivolous.” The appeals court imposed additional sanctions for pursuing “frivolous arguments in bad faith.”

Broughton v. United States, 632 F.2d 706 (8th Cir. 1980), cert. denied, 450 U.S. 930 (1981) – the court rejected a refund suit, stating that the Sixteenth Amendment authorizes imposition of an income tax without apportionment among the states.

United States v. Hockensmith, 104 A.F.T.R.2d 2009-5133, 2009 WL 1883521 (M.D. Pa. Jun. 30, 2009) – the court rejected the taxpayer’s arguments that no law created an income tax and that the taxpayer was outside the government’s taxing authority. The court held that the Sixteenth Amendment allows for the taxation of income and eliminates the requirement for apportionment among the states.

THE TRUTH ABOUT FRIVOLOUS TAX ARGUMENTS

February 16, 2012

I. FRIVOLOUS TAX ARGUMENTS IN GENERAL	1
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1. Contention: The filing of a tax return is voluntary.	1
2. Contention: Payment of federal income tax is voluntary.	3
3. Contention: Taxpayers can reduce their federal income tax liability by filing a "zero return."	5
4. Contention: The IRS must prepare federal tax returns for a person who fails to file.	7
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4. Contention: Compelled compliance with the federal income tax laws is a form of servitude in violation of the Thirteenth Amendment.	26
5. Contention: The federal income tax laws are unconstitutional because the Sixteenth Amendment to the United States Constitution was not properly ratified.	27
6. Contention: The Sixteenth Amendment does not authorize a direct non-apportioned federal income tax on United States citizens.....	29

Exhibit B

6. Contention: The Sixteenth Amendment does not authorize a direct non-apportioned federal income tax on United States citizens.

Some individuals or groups assert that the Sixteenth Amendment does not authorize a direct non-apportioned income tax and thus, U.S. citizens and residents are not subject to federal income tax laws.

The Law: The constitutionality of the Sixteenth Amendment has invariably been upheld when challenged. And numerous courts have both implicitly and explicitly recognized that the Sixteenth Amendment authorizes a non-apportioned direct income tax on United States citizens and that the federal tax laws as applied are valid.

Relevant Case Law:

United States v. Collins, 920 F.2d 619, 629 (10th Cir. 1990) (relying on Brushaber v. Union Pac. R.R., 240 U.S. 1, 12-19 (1916)), cert. denied, 500 U.S. 950 (1991) – the court found defendant's argument that the Sixteenth Amendment does not authorize a direct, non-apportioned tax on United States citizens to be "devoid of any arguable basis in law."

In re Becraft, 885 F.2d 547, 548-49 (9th Cir. 1989) – the court affirmed a failure to file conviction and rejected the taxpayer's frivolous position that the Sixteenth Amendment does not authorize a direct non-apportioned income tax.

Lovell v. United States, 755 F.2d 517, 518-20 (7th Cir. 1984) – the court rejected the argument that the Constitution prohibits imposition of a direct tax without apportionment, upheld assessment of the frivolous return penalty, and imposed sanctions for pursuing "frivolous arguments in bad faith" on top of the lower court's award of attorneys' fees to the government.

Maxwell v. Internal Revenue Service, 103 A.F.T.R.2d (RIA) 2009-1571, 2009 WL 920533 (M.D. Tenn. Apr. 1, 2009) – the court found that the taxpayer's arguments to have been "routinely rejected," principally that there is no law that imposes an income tax nor is there a non-apportioned direct tax that could be imposed on him as a supposed non-citizen.

Other Cases:

Broughton v. United States, 632 F.2d 706 (8th Cir. 1980), cert. denied, 450 U.S. 930 (1981); United States v. Hockensmith, 2009 WL 1883521, 104 A.F.T.R.2d 2009-5133 (M.D. Pa. June 30, 2009); Stearman v. Commissioner, T.C. Memo. 2005-39, 89 T.C.M. (CCH) 823 (2005), aff'd, 436 F.3d 533 (5th Cir. 2006), cert. denied, 547 U.S. 1207 (2006).

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Michael C. Worsham

(b) County of Residence of First Listed Plaintiff Harford County, MD
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Pro se, Michael C. Worsham, 1916 Cosner Road, Forest Hill, MD
21050-2210, (410) 557-6192

DEFENDANTS

U.S. Department of the Treasury

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Freedom of Information Act, 5 U.S.C. section 552

Brief description of cause:

Defendant DOT/IRS failed to respond or produce documents requested by Plaintiff under the FOIA.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

09/04/2012

Michael C. Worsham

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____